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U.S. DISTRICT COURT

WESTERN DISTRICT OF NEW YORK [LIVE]

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Case Name: United States of America v. Duffek et al

Case Number: 1:05-cv-253

Filer:

Document Number: 28

Docket Text:

TEXT ORDER. This Court has reviewed and considered the ([27] [26] [25]) Stipulations of Final Judgment of Permanent Injunction against Defendants Patrick O'Connor, Brian Duffek and Duffek, O'Connor & Assocs., Inc.. The Stipulations are HEREBY APPROVED. Further, the Clerk of the Court shall correct docket entry 25 to reflect that the stipulation is as to Brian Duffek, not Patrick O'Connor. Further, the Clerk of the Court shall enter judgment in Plaintiff's favor and close this case. SO ORDERED. Issued by the Hon. William M. Skretny on 1/21/2007. (MEAL)

The following document(s) are associated with this transaction:

1:05-cv-253 Notice will be electronically mailed to:

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1/23/2007

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-0253S(Sr)
)	
BRIAN DUFFEK,)	
PATRICK O'CONNOR, and)	
DUFFEK, O'CONNOR & ASSOCIATES, INC.)	
Defendants.)	

**STIPULATED FINAL JUDGMENT OF PERMANENT INJUNCTION AGAINST
DEFENDANT DUFFEK, O'CONNOR & ASSOCIATES, INC.**

Plaintiff United States of America has filed a Complaint for Permanent Injunction against, among others, defendant Duffek, O'Connor & Associates, Inc.

Duffek, O'Connor & Associates, Inc. admits that the Court has jurisdiction over it and over the subject matter of this action.

Duffek, O'Connor & Associates, Inc. admits that it prepared individual income tax returns which represented that certain taxpayers were entitled under the provisions of the internal revenue laws to claim certain expenses and other deductions and it reasonably should have known that said taxpayers were not entitled to claim such expenses and deductions

Duffek, O'Connor & Associates, Inc. waives the entry of findings of fact and conclusions of law and consents to the entry of this permanent injunction without admitting or denying that grounds exist for imposition of an injunction, except that it admits that it prepared individual income tax returns which represented that certain taxpayers were entitled under the provisions of the internal revenue laws to claim certain expenses and other deductions and it reasonably should have known that said taxpayers were not entitled to claim such expenses and deductions.

NOW, THEREFORE, it is accordingly ORDERED, ADJUDGED AND DECREED that:

1. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a) and 7407.
2. The Court finds that defendant Duffek, O'Connor & Associates, Inc. has admitted that it prepared individual income tax returns which represented that certain taxpayers were entitled under the provisions of the internal revenue laws to claim certain expenses and other deductions and it reasonably should have known that said taxpayers were not entitled to claim such expenses and deductions.
3. The Court finds that, other than the admission described above in paragraph 2, the defendant Duffek, O'Connor & Associates, Inc. has neither admitted nor denied the United States' allegations that it has engaged in conduct that is subject to penalty under 26 U.S.C. § 6694 and that interferes with the enforcement of the internal revenue laws.
4. The Court finds that the defendant Duffek, O'Connor & Associates, Inc. has consented to the entry of a permanent injunction pursuant to 26 U.S.C. §§ 7407 and 7402(a) to prohibit it from: (1) acting as a federal-income-tax-return preparer (as defined in 26 U.S.C. § 7701(a)(36)); (2) preparing or assisting in the preparation of or filing any federal income tax return for any other person or entity; (3) engaging in any conduct subject to penalty under 26 U.S.C. § 6694; and (4) engaging in any fraudulent or deceptive conduct which substantially interferes with the proper administration or enforcement of the internal revenue laws.
5. It is further ORDERED, ADJUDGED AND DECREED that defendant Duffek, O'Connor & Associates, Inc., and its representatives, agents, servants, employees, and

those persons in active concert or participation with it, is permanently enjoined directly or indirectly from:

- a. **acting as a federal-income-tax-return preparer as defined in**
26 U.S.C. § 7701(a)(36);
 - b. preparing or assisting in the preparation of or filing any federal income tax return for any other person or entity;
 - c. engaging in any conduct subject to penalty under 26 U.S.C. § 6694; and
 - d. engaging in any fraudulent or deceptive conduct which substantially interferes with the proper administration or enforcement of the internal revenue laws.
6. It is furthered ORDERED, ADJUDGED AND DECREED that defendant Duffek, O'Connor & Associates, Inc. along with defendants Brian Duffek and Patrick O'Connor shall, at their own expense, send a pre-printed postcard to persons for whom Brian Duffek or Patrick O'Connor has prepared federal income tax returns since 2001, using the list of such persons provided to defendant Duffek, O'Connor & Associates, Inc.'s counsel by the U.S. Department of Justice Tax Division on or about November 3, 2006. The text of the postcard, which shall be approved by the U.S. Department of Justice Tax Division, shall inform the addressees of this injunction order and of where a copy of this injunction order can be viewed on the U.S. Department of Justice Tax Division's website. The postcards shall be sent within 21 days of the date of this Order or within 14 days of approval of the text of the postcard by the U.S. Department of Justice Tax Division, whichever is later. Within 10 day of the postcards being sent, the defendant Duffek, O'Connor & Associates, Inc. shall file with this Court a sworn certificate of compliance.

7. Further, the Court shall retain jurisdiction over this action to implement and enforce this permanent injunction and all other decrees and orders necessary or appropriate to the public interest.
8. The United States shall be entitled to conduct post-judgment discovery permitted under the Federal Rules of Civil Procedure to monitor Duffek, O'Connor & Associates, Inc.'s compliance with the terms of this Final Judgment of Permanent Injunction, including discovery relating to customer lists. Nothing in this order shall be construed to prevent the United States from conducting discovery of Duffek, O'Connor & Associates, Inc. otherwise permitted under the Federal Rules of Civil Procedure.
9. The Internal Revenue Service is not barred from imposing penalties against Duffek, O'Connor & Associates, Inc. and Duffek, O'Connor & Associates, Inc. is not barred from defending against any penalties imposed against it by the Internal Revenue Service.

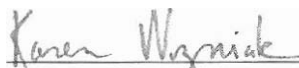
10. Each party to this stipulation shall bear its own costs

IT IS SO ORDERED this _____ day of December 2006.

WILLIAM M. SKRETNY
United States District Court Judge
Western District of New York

Stipulation approved as to form and content:

For the United States.


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Dated: December 5, 2006

For Duffek, O'Connor & Associates, Inc.,


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Dated: December 7th, 2006